Remarks/Arguments:

In the subject Office action dated March 24, 2006, claims 1-20 were examined. In response thereto, claims 1, 3, 6, 11-16, and 18-20 are amended and claims 1 and 3-20 remain under active prosecution. New claims 21-28 are also added by the present amendment. Applicants assert that the amendments are subject in the originally filed application and do not introduce new subject matter.

35 U.S.C. §102(b) Rejections

In the subject Office action, claims 1-5, 9, and 11-13 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,157,713 (Clarey). With respect to the rejection of claims 1-5, and 9 as being anticipated by Clarey, the Examiner contends, in part, that Clarey teaches a tension carrying belt, a balloon attached to the tension carrying belt, the balloon comprising a plurality of partitions defining a plurality of inner chambers, and a fluid supply tube comprising a plurality of inlets wherein each of the plurality of inlets is in fluid communication with a corresponding one of the plurality of inner chambers of the balloon.

Applicants believe the Examiner has misread Clarey which forms the basis of the Examiner's rejections of claims 1-5 and 9 under 35 U.S.C. §102(b). First, claim 1 has been amended by the present amendment to include the limitations of original claim 2, and requires, in part, a fluid supply tube comprising a plurality of inlets where each one of the plurality of inlets provides fluid communication between a corresponding one of the inner chambers and the fluid supply tube. Such an arrangement is not present in the Clarey device. Specifically, Clarey teaches an air-pressure splint with a plurality of inflatable rib sections (26) where *every* rib section (26) is inflated by way of one, or both, inflating tube members (50, 52) (col. 3, lines 30-42). Each inflating tube member (50, 52) has *one* inlet which provides fluid communication to *every* inflatable rib section (26) (see Fig. 1 and Fig. 2). In contrast, unlike the inflating tube member in Clarey which has one inlet that provides fluid communication to every inflatable rib section, claim 1 as amended in the present application requires, in part, a fluid supply tube comprising a plurality of inlets where each one of the plurality of inlets provides fluid communication between a corresponding one of the inner chambers and the fluid supply tube. For at least the

forgoing reasons, Applicants respectfully believe that the rejection of claim 1 under 35 U.S.C. §102(b) is misplaced and should be properly withdrawn. Similarly, this rejection should be withdrawn with respect to claims 3-5 and 9 by virtue of their dependence from claim 1.

With respect to the rejection of claims 11 and 12 as being anticipated by Clarey, the Examiner contends that "[t]he compartments (26) may also be interpreted as a plurality of balloons, since the partitions separate the interior of the balloon that is attached to the band." Applicants believe the Examiner has misinterpreted Clarey which forms the basis of the Examiner's rejections of claims 11 and 12 under 35 U.S.C. §102(b). First, claim 11 as amended herein requires, in part, a plurality of balloons attached to the tension carrying belt. Each balloon comprises a separate skin that defines an interior chamber of each balloon. The fluid supply tube comprises a plurality of inlets where each one of the plurality of inlets provides fluid communication between an interior chamber of a corresponding one of the plurality of balloons and the fluid supply tube. Such an arrangement is not present in the Clarey device. Specifically, Clarey teaches an air-pressure splint with a plurality of inflatable rib sections (26) where the plurality of inflatable rib sections (26) share a *single* common wall (14) (col. 2, lines 65-68; col. 3, lines 1-2; Fig. 3). Moreover, as discussed previously, *every* rib section (26) is inflated by way of one, or both, inflating tube members (50, 52) (col. 3, lines 30-42). Each inflating tube member (50, 52) has *one* inlet which provides fluid communication to *every* inflatable rib section (26) (see Fig. 1 and Fig. 2). In contrast, unlike the plurality of inflatable rib sections in Clarey which share a single common wall, claim 11 as amended in the present application requires, in part, a plurality of balloons where each balloon comprises a separate skin that defines an interior chamber of each balloon. Furthermore, unlike the inflating tube member in Clarey which has one inlet that provides fluid communication to every inflatable rib section, claim 11 as amended requires, in part, a fluid supply tube comprising a plurality of inlets where each one of the plurality of inlets provides fluid communication between an interior chamber of a corresponding one of the plurality of balloons and the fluid supply tube. For at least the forgoing reasons, Applicants respectfully believe that the rejection of claim 11 under 35 U.S.C. §102(b) is misplaced and should be properly withdrawn. Similarly, this rejection

should be withdrawn with respect to claim 12 by virtue of its dependence from claim 11.

With respect to the rejection of claim 13 as being anticipated by Clarey, the Examiner contends that "the partitions (22, may also be interpreted as reinforcing structure." Applicants believe the Examiner has misinterpreted Clarey which forms the basis of the Examiner's rejection of claim 13 under 35 U.S.C. §102(b). First, claim 13 as amended herein requires a balloon comprising a skin where the skin defines a single interior chamber of the balloon when the gastric band is in an unencircled position. The skin further comprises one or more reinforced sections disposed along the length of the skin's interior surface. Such an arrangement is not present in the Clarey device. Specifically, Clarey teaches an air-pressure splint with a plurality of inflatable rib sections (26). Each rib section (26) is defined between two sheets (18, 20) and adjacent strips (22), where each strip (22) separates a rib section (26) from an adjacent rib section (26) (see Fig. 1 and Fig. 3). The strips (22) are formed by intermittently securing, by an adhesive or the like, the two sheets (18, 20) to one another, such that each unsecured portion (24) defines an inflatable rib section (26) (col. 2, lines 65-68; col. 3, lines 1-10). Thus, the plurality of inflatable rib sections (26) are a feature of the splint even while the splint is in an unencircled position (Fig. 1 and Fig. 3). In contrast, claim 13 as amended requires a balloon comprising a skin which defines a single interior chamber of the balloon when the gastric band is in an unencircled position. Unlike the strips in Clarey which separate each of the plurality of rib sections even while the splint is in an unencircled position, the reinforced sections disposed along the length of the interior surface of the skin do not separate the interior of the balloon into a plurality of chambers when the gastric band is in an unencircled position. For at least the forgoing reasons, Applicants respectfully believe that the rejection of claim 13 under 35 U.S.C. §102(b) is misplaced and should be properly withdrawn.

35 U.S.C. §102(e) Rejections

In the subject Office action, claims 1, 8-11, 13, and 14 were rejected under 35 U.S.C. §102(e) as being anticipated by PG-PUB 2005/0192531 (Birk). Turning to independent claim 1, claim 1 has been amended to include the limitations of original claim 2, and requires, in part, a fluid supply tube comprising a plurality of inlets

where each one of the plurality of inlets provides fluid communication between a corresponding one of the inner chambers and the fluid supply tube. Such an arrangement is not present in the Birk device. Specifically, Birk fails to disclose a fluid supply tube comprising a plurality of inlets where each one of the plurality of inlets provides fluid communication between a corresponding one of the inner chambers and the fluid supply tube. For at least the forgoing reasons, Applicants respectfully believe Birk fails to disclose the claimed invention and thus fails to anticipate claim 1 as amended herein. Reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §102(e) is respectfully requested, as well as for claims 8-10 by virtue of their dependence from claim 1.

With respect to the rejection of claim 11 as being anticipated by Birk, the Examiner contends that "Birk discloses a gastric band comprising: a tension carrying belt (10); a plurality of balloons (6) wherein said plurality of balloons is attached to said tension carrying belt (FIG. 4); and a fluid supply tube comprising a plurality of inlets (paragraph 0006) wherein said fluid supply tube is attached to said tension carrying belt such that said plurality of inlets of said fluid supply tube provide fluid communication between each of said plurality of balloons and said fluid supply tube (paragraph 0006)." Applicants believe the Examiner has misread Birk which forms the basis of the Examiner's rejections of claim 11 under 35 U.S.C. §102(e). Claim 11 as amended herein requires, in part, a plurality of balloons attached to the tension carrying belt. Each balloon comprises a separate skin that defines an interior chamber of each balloon. The fluid supply tube comprises a plurality of inlets where each one of the plurality of inlets provides fluid communication between an interior chamber of a corresponding one of the plurality of balloons and the fluid supply tube. Such an arrangement is not present in the Birk device. First, the Examiner cites paragraph 0006 of Birk to support the assertion that Birk discloses a fluid supply tube comprising a plurality inlets where each inlet provides fluid communication between each balloon of a plurality of balloons and the fluid supply tube. In is unclear to Applicants as to why the Examiner cites paragraph 0006 of Birk to support this assertion as paragraph 0006 does not discuss a fluid supply, a fluid supply tube comprising a plurality of inlets, or a gastric band comprising a plurality of balloons. Moreover, Birk teaches a gastric band having an inflatable shell (16) in fluid

communication with a fill tube (14) (paragraphs 0029-0030). The inflatable shell (16) includes an inner surface (15), an outer surface (22), and a plurality of chambers (6) (FIG. 2, FIG. 3). The chambers (6) are formed in the inflatable shell (16) during the manufacturing process and are a feature of the inflatable shell (16) (paragraph 0034). Consequently, the chambers (6) share the same inner surface (15) and the same outer surface (22) (FIG. 5, FIG. 6). In contrast, unlike the chambers in Birk which are a feature of a *single* inflatable shell and which share common inner and outer surfaces, claim 11 as amended requires, in part, a plurality of balloons where each balloon comprises a separate skin that defines an interior chamber of each balloon. Additionally, unlike the fill tube in Birk which is in fluid communication with a *single* inflatable shell, claim 11 as amended requires, in part, a fluid supply tube comprising a plurality of inlets where each one of the plurality of inlets provides fluid communication between an interior chamber of a corresponding one of the plurality of balloons and the fluid supply tube. For at least the forgoing reasons, Applicants respectfully believe that the rejection of claim 11 under 35 U.S.C. §102(e) is misplaced and should be properly withdrawn.

With respect to the rejection of claims 13 and 14 as being anticipated by Birk, the Examiner contends that "Birk discloses a gastric band comprising: a tension carrying belt (10) having a top portion; a balloon having an interior surface, said balloon further comprising one or more reinforced sections (7) disposed along the length of said interior surface of said balloon (paragraph 0033) said balloon being attached to said tension carrying belt (paragraph 0031); and a fluid supply tube wherein said fluid supply tube provides fluid communication between said balloon and said fluid supply tube (paragraph 0030); wherein upon being placed in an encircling position around a stomach, each of said reinforced sections contacts said top portion of said tension carrying belt dividing said balloon into at least two chambers (FIG. 7)." Applicants believe the Examiner has misread Birk which forms the basis of the Examiner's rejections of claims 13 and 14 under 35 U.S.C. §102(e). First, claim 13 as amended herein requires a balloon comprising a skin where the skin defines a single interior chamber of the balloon when the gastric band is in an unencircled position. The skin further comprises one or more reinforced sections disposed along the length of the skin's interior surface. Such an arrangement is not

present in the Birk device. Specifically, Birk teaches a gastric band comprising an inflatable shell (16) having a plurality of chambers (6) (paragraph 0032). The plurality of chambers (6) are each separated by respective notches (8) and/or ribs (7) (paragraphs 0033-0034). Further, the plurality of chambers (6), notches (8) and ribs (7) are formed in the inflatable shell (16) during the manufacturing process and are a feature of the inflatable shell (16) whether the gastric band is in an encircled position or an unencircled position (paragraph 0034, FIG. 4, FIG. 8). In contrast, claim 13 as amended requires a balloon comprising a skin which defines a single interior chamber of the balloon when the gastric band is in an unencircled position. Unlike the ribs and/or notches in Birk which separate each of the plurality of chambers even while the gastric band is in an unencircled position, the reinforced sections disposed along the length of the interior surface of the skin do not separate the interior of the balloon into a plurality of chambers when the gastric band is in an unencircled position. For at least the forgoing reasons, Applicants respectfully believe that the rejection of claim 13 under 35 U.S.C. §102(e) is misplaced and should be properly withdrawn, as well as for claim 14 by virtue of its dependence from claim 13.

Allowable Subject Matter

Applicants appreciate the indication by the Examiner that claims 6, 7, and 15-20 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response thereto, Applicants have rewritten claim 6 in independent form including all of the limitations of the original base claim and any intervening claims and submit such as new claim 21. Applicants have rewritten dependent claim 7 and submits such as new claim 22. In addition, Applicants have rewritten claim 15 in independent form including all of the limitations of the original base claim and any intervening claims and submit such as new claim 23. Applicants have rewritten dependent claims 16-20 and submits such as new claims 24-28. Applicants believe new claims 21-28 are now in condition for allowance and such action is respectfully solicited.

Conclusion

Applicants have made an earnest effort to be fully responsive to the Examiner's objections and believe that claims 1 and 3-28 are now in condition for allowance. Accordingly, Applicants solicit the allowance of these claims.

If, however, the Examiner should for any reason consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Respectfully submitted,

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